

Wetland Board Case W-23-12/VMRC 12-0467: 2035 Bush Neck Road

Staff report for the May 9, 2012 Wetland Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Wetland Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Mary Lou Clark

Agent: Mid-Atlantic Resource Consulting, Ms. Karla Havens

Location: 2035 Bush Neck Road

Parcel Identification: 3420100008

Watershed: Chickahominy River (HUC Code JL29)

Proposed Activity: Construct 105 feet of Class 1 quarry stone revetment over filter cloth. The site is to be accessed from the upland. No trees are to be removed. No clearing or grading required.

Project Discussion

Ms. Karla Havens, on behalf of Ms. Mary Lou Clark, has applied for a Wetlands Permit to construct a 105 foot long riprap revetment over filter cloth on property located at 3025 Bush Neck Road, directly adjacent to Buzzards Bay off of the Chickahominy River. The property is further identified as JCC Parcel Number 3420100008.

Several site visits were conducted by staff to document and evaluate both the potential scope of the project and the existing conditions. An additional site visit was conducted on April 30, 2012 to discuss the project with Ms. Clark.

The description of the project indicates that no trees will be removed and that no clearing or grading is required. The cross-section view of the proposed work indicates otherwise. It indicates that the revetment toe will be cut into the ground approximately 2 feet, severing the roots of the trees along the shoreline. Although there will not be any additional grading, the wetland system landward of the toe will be destroyed by the placement of the filter fabric and armor stone.

The wetlands that are present in the impact zone are Type XI Freshwater Mixed Community wetlands, dominated by bald cypress with the associated vegetation of pickerel weed and marsh hibiscus. These are very valuable marshes and the aim should be to keep them in a natural state and the conservation of this type of marsh should be of highest priority.

The project proposes to construct a 105 foot long, 10 foot wide stone revetment overtop of filter fabric which will impact 785 square feet of the above described wetland system. The remaining impact of 265 square feet is to vegetation dominated by lawn grasses and/or poison ivy. The landscape position of this area, when looked at elsewhere near the project site, would indicate that this would be a Type IV Saltbush Community, dominated by hightide bush and/or wax myrtle. This community is absent in the project location due to continued, grandfathered maintenance activities. The size stone proposed to be used in this project is between 75 and 150 pounds.

As an alternative, a rock sill channelward of the bald cypress marsh was discussed during the April 30, 2012 meeting with Ms. Clark. The relative pros and cons of each type of structure were discussed.

Mitigation Discussion

As published in the Virginia Register on July 11, 2005, the revised Wetland Mitigation Compensation Policy and Supplemental Guidelines, Regulation 4VAC 20-390-10 et seq., Virginia, as a Chesapeake Bay Program partner, is committed to “achieve a no-net loss of existing wetlands acreage and function in the signatories’ regulatory programs.” In order for a proposed project to be authorized to impact wetlands and compensate for the wetland loss in some prescribed manner, the following three criteria must be met:

1. All reasonable mitigative efforts, including alternative siting, which would eliminate or minimize wetland loss or disturbance must be incorporated in the proposal; and
2. The proposal must clearly be water dependant in nature; and
3. The proposal must demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.

If the proposed project cannot meet one or more of the above criteria, the project must be denied or must occur in areas outside of wetlands. Should it satisfy all three criteria, however, compensation for the wetland loss is required. The sequence of acceptable mitigation options should be as follows: on-site, off-site within the same watershed, mitigation bank(s) in the same watershed, or a payment of an in-lieu fee. If compensation is required, it should be a condition of the permit.

As stated earlier, this project will impact 785 square feet of Type XI Freshwater Mixed Community wetland and 265 square feet of upland vegetation within the Board’s jurisdiction as proposed. Staff does not believe that the three criteria outlined above have been met, with a rock sill being a viable alternative for the shoreline stabilization.

Staff Recommendations

Staff recommends **denial** of the application. Should the Board wish to approve the application, staff suggests the following conditions be incorporated into the approval:

1. The applicant must obtain all other necessary local, state, and/or federal permits required for the project, including a land disturbing permit.
2. Prior to any land disturbing activities, a pre-construction meeting will be held on-site.

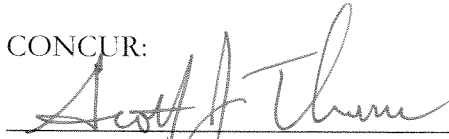
3. Mitigation payment into a mitigation bank or in-lieu fee payment for 785 square feet of tidal wetlands and evidence of payment presented to the Engineering and Resource Protection Division Director prior to the pre-construction meeting.
4. No trees shall be removed as part of this project unless approved by the Engineering and Resource Protection Division.
5. The Engineering and Resource Protection Division Director reserves the right to require additional erosion and sediment control measures, including a turbidity curtain, for this project if field conditions warrant their use.
6. The limits of work shall be flagged in the field prior to the pre-construction meeting.
7. The wetlands permit for this project shall expire on May 9, 2013. If an extension of the permit is needed, a written request shall be submitted to the Engineering and Resource Protection Division no later than two weeks prior to the expiration date.

Staff Report prepared by:



Michael D. Woolson
Senior Watershed Planner

CONCUR:



Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Joint Permit Application
Protest Letter
Site Photos
Karen Duhring (VIMS) email